



House of Representatives

General Assembly

File No. 261

January Session, 2005

Substitute House Bill No. 6806

House of Representatives, April 11, 2005

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING INSURANCE PRODUCER COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) As used in this
2 section:

3 (1) "Affiliate" means a person who (A) controls, is controlled by, or
4 is under common control with a producer, and (B) is permitted to
5 receive compensation pursuant to chapter 701a of the general statutes;

6 (2) "Compensation from an insurer or other third party" means
7 payments, commissions, fees, awards, overrides, bonuses, contingent
8 commissions, loans, stock options, gifts, prizes or other forms of
9 valuable consideration, whether or not payable pursuant to a written
10 agreement;

11 (3) "Compensation directly from the customer" does not include any
12 fee or amount allowed under section 38a-707 of the general statutes

13 and regulations adopted pursuant to said section or any fee or amount
14 collected by or paid to the producer that does not exceed an amount
15 established by the commissioner pursuant to section 38a-707 of the
16 general statutes;

17 (4) "Customer" does not include a person whose only relationship to
18 the producer or affiliate with respect to the placement of insurance is
19 as (A) a participant or beneficiary of an employee benefit plan, or (B) a
20 person covered under a group or blanket insurance policy or group
21 annuity contract;

22 (5) "Documented acknowledgement" means the customer's written
23 consent, except that in the case of a purchase over the telephone or by
24 electronic means for which written consent cannot reasonably be
25 obtained, "documented acknowledgement" includes consent
26 documented by the producer; and

27 (6) "Insurance producer" or "producer" means an insurance
28 producer, as defined in section 38a-702a of the general statutes, except
29 that "insurance producer" or "producer" does not include (A) a person
30 such as a managing general agent, sales manager or wholesale broker
31 who is licensed as an insurance producer and who acts only as an
32 intermediary between an insurer and the customer's producer, or (B) a
33 reinsurance intermediary.

34 (b) If an insurance producer or affiliate of such producer receives
35 any compensation directly from a customer for the initial placement of
36 insurance, neither the producer nor the affiliate shall accept or receive
37 any compensation from an insurer or other third party for that
38 placement of insurance unless the producer has, prior to the time the
39 policy is delivered to the customer:

40 (1) Obtained the customer's documented acknowledgment that such
41 compensation will be received by the producer or affiliate; and

42 (2) Disclosed the amount of compensation that the producer or
43 affiliate will receive from the insurer or other third party for the

44 placement, except that if the amount of compensation is not known at
 45 the time of disclosure, the producer shall disclose the specific method
 46 for calculating such compensation and, if possible, a reasonable
 47 estimate of the amount.

48 (c) Subsection (b) of this section shall not apply to:

49 (1) An insurance producer who (A) does not receive compensation
 50 directly from the customer for the placement of insurance, and (B)
 51 discloses to the customer prior to the time the policy is delivered to the
 52 customer:

53 (i) That the producer will receive compensation from an insurer in
 54 connection with that placement; or

55 (ii) That, in connection with that placement of insurance, the
 56 insurance producer represents the insurer and that the producer may
 57 provide services to the customer for the insurer;

58 (2) The placement of insurance in surplus lines or residual markets;
 59 or

60 (3) A producer whose sole compensation is derived from
 61 commissions or other remuneration from the insurer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	New section

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill prohibits an insurance producer or his affiliate from receiving compensation from an insurer in certain situations. The bill has no fiscal impact.

OLR Bill Analysis

sHB 6806

**AN ACT CONCERNING INSURANCE PRODUCER
COMPENSATION****SUMMARY:**

This bill prohibits an insurance producer or his affiliate from receiving compensation from an insurer in certain situations. A producer or affiliate who receives compensation directly from a customer for an insurance sale is prohibited from also accepting compensation from an insurer or other third party for the sale unless, before he delivers the insurance policy to the customer, the producer (1) obtains the customer's acknowledgement that he or his affiliate will receive compensation from the insurer and (2) discloses the compensation amount. If the amount is unknown, he must give a reasonable estimate, if possible, and how the compensation is calculated.

The customer's acknowledgement must be in writing, but if the transaction occurs over the telephone or electronically, the producer can document the acknowledgement himself.

The bill does not apply to a producer (1) whose only compensation is from an insurer (e.g., he is the insurer's employee) and (2) who does not receive compensation from the customer and informs the customer before policy delivery that (a) he will receive compensation from the insurer or (b) he represents the insurer and can service the customer on the insurer's behalf. It also does not apply to (1) the placement of insurance in surplus lines or residual markets, (2) a person who is a licensed producer but only acts as an intermediary between the insurer and the customer's producer, and (3) a reinsurance intermediary.

Compensation from a customer refers to commissions that are deductible from the customer's premium payment. Compensation from the insurer means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or other valuable consideration, whether agreed to in writing or not.

EFFECTIVE DATE: October 1, 2005

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 16 Nay 0